

**FILED**

**NFC 17 2012**

**Board of Vocational Nursing  
and Psychiatric Technicians**

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9 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2008-259

13 **JASON GEORGE STRYKER**  
222 J Street, Apt. 319  
14 San Diego, CA 92102

**A C C U S A T I O N**

15 **Vocational Nurse License No. VN 228255**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
21 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
22 Technicians, Department of Consumer Affairs.

23 2. On or about June 22, 2007, the Board of Vocational Nursing and Psychiatric  
24 Technicians issued Vocational Nurse License Number VN 228255 to Jason George Stryker  
25 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to  
26 the charges brought herein and will expire on December 31, 2012, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

5. Section 118, subdivision (b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order  
2 to fix the degree of discipline or to determine if the conviction is substantially related  
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"  
4 and "registration."

5 9. Section 2878 of the Code states:

6 The Board may suspend or revoke a license issued under this chapter [the  
7 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the  
following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the  
9 following:

10 . . . .

11 (f) Conviction of a crime substantially related to the qualifications, functions,  
12 and duties of a licensed vocational nurse, in which event the record of the conviction  
shall be conclusive evidence of the conviction.

13 . . . .

14 10. Section 2878.5 of the Code states:

15 In addition to other acts constituting unprofessional conduct within the meaning  
16 of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for  
a person licensed under this chapter to do any of the following:

17 . . . .

18 (b) Use any controlled substance as defined in Division 10 of the Health and  
19 Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic  
beverages, to an extent or in a manner dangerous or injurious to himself or herself,  
20 any other person, or the public, or to the extent that the use impairs his or her ability  
to conduct with safety to the public the practice authorized by his or her license.

21 (c) Be convicted of a criminal offense involving possession of any narcotic or  
22 dangerous drug, or the prescription, consumption, or self-administration of any of the  
substances described in subdivisions (a) and (b) of this section, in which event the  
23 record of the conviction is conclusive evidence thereof.

24 . . . .

## 25 REGULATORY PROVISIONS

26 11. California Code of Regulations, title 16, section 2518.6, provides, in pertinent part,  
27 that a licensed vocational nurse shall adhere to standards of the profession, and shall incorporate  
28 ethical and behavioral standards of professional practice by abstaining from chemical/substance

1 abuse. A violation of this section constitutes unprofessional conduct for purposes of initiating  
2 disciplinary action.

3 12. California Code of Regulations, title 16, section 2521, states:

4 For the purposes of denial, suspension, or revocation of a license pursuant to  
5 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
6 crime or act shall be considered to be substantially related to the qualifications,  
7 functions or duties of a licensed vocational nurse if to a substantial degree it  
8 evidences present or potential unfitness of a licensed vocational nurse to perform the  
9 functions authorized by his license in a manner consistent with the public health,  
10 safety, or welfare. Such crimes or acts shall include but not be limited to those  
11 involving the following:

12 (a) Procuring a license by fraud, misrepresentation, or mistake.

13 (b) A conviction of practicing medicine without a license in violation of  
14 Chapter 5 of Division 2 of the Business and Professions Code.

15 (c) Violating or attempting to violate, directly or indirectly, or assisting in or  
16 abetting the violation of, or conspiring to violate any provision or term of Chapter  
17 6.5, Division 2 of the Business and Professions Code.

18 (d) Aiding or assisting, or agreeing to aid or assist any person or persons,  
19 whether a licensed physician or not, in the performance of or arranging for a violation  
20 of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and  
21 Professions Code.

22 (e) Conviction of a crime involving fiscal dishonesty.

23 (f) Any crime or act involving the sale, gift, administration, or furnishing of  
24 "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the  
25 Business and Professions Code.

26 13. California Code of Regulations, title 16, section 2522 states:

27 When considering a) the denial of a license under Section 480 of the Business  
28 and Professions Code, b) the suspension or revocation of a license on the ground that  
a licensee has been convicted of a crime, or c) a petition for reinstatement of a license  
under Section 2787.7 of the Business and Professions Code, the Board in evaluating  
the rehabilitation of an individual and his or her present eligibility for a license, will  
consider the following criteria:

(1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.

(2) Actual or potential harm to the public.

(3) Actual or potential harm to any patient.

(4) Overall disciplinary record.

(5) Overall criminal actions taken by any federal, state or local agency or court.

- 1 (6) Prior warnings on record or prior remediation.  
2 (7) Number and/or variety of current violations.  
3 (8) Mitigation evidence.  
4 (9) In case of a criminal conviction, compliance with terms of sentence and/or  
5 court-ordered probation.  
6 (10) Time passed since the act(s) or offense(s) occurred.  
7 (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to  
8 Penal Code section 1203.4.  
9 (12) Cooperation with the Board and other law enforcement or regulatory  
10 agencies.  
11 (13) Other rehabilitation evidence.

### 12 COST RECOVERY

13 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
14 administrative law judge to direct a licensee found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case.

### 17 FIRST CAUSE FOR DISCIPLINE

#### 18 (May 20, 2009 Criminal Conviction for DUI on July 13, 2008)

19 15. Respondent has subjected his license to disciplinary action under sections 490 and  
20 2878, subdivision (f) of the Code in that he was convicted of a crime that is substantially related  
21 to the qualifications, functions, and duties of a licensed vocational nurse. The circumstances are  
22 as follows:

23 a. On or about May 20, 2009, in a criminal proceeding entitled *People of the*  
24 *State of California v. Jason George Stryker*, in San Diego County Superior Court, case number  
25 C283520, Respondent was convicted on his plea of guilty of violating Vehicle Code section  
26 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08 percent or  
27 higher, a misdemeanor. The court found true the allegation that Respondent was previously  
28 convicted of two or more DUI offenses on March 19, 2002, and March 26, 2004, within the  
meaning of Vehicle Code sections 23626 and 23546, as described in paragraphs 18-19, below.

1 The court also found true that Respondent's BAC was 0.15 percent or more, within the meaning  
2 of Vehicle Code section 23578. The court dismissed additional counts of driving under the  
3 influence of alcohol (Veh. Code, § 23152(a)), and driving without a valid driver's license (Veh.  
4 Code, § 12500(a)), pursuant to a plea agreement.

5 b. As a result of the conviction, on or about May 20, 2009, Respondent was  
6 sentenced to 120 days in the custody of the sheriff, with credit for two days, to be served in the  
7 Short Term Work Furlough program. Respondent was granted five years summary probation,  
8 and he was ordered to enroll in and complete a Multiple Conviction Program, pay fines, fees, and  
9 restitution in the amount of \$2,408, and comply with the terms of standard DUI probation.

10 c. The facts that led to the conviction are that on or about the early morning  
11 of July 13, 2008, a California Highway Patrol (CHP) officer arrived at a U.S. Border Patrol  
12 checkpoint to evaluate a possible DUI driver stopped by the Border Patrol. It was reported to the  
13 CHP officer that while Respondent was stopped at the checkpoint, a strong odor of an alcoholic  
14 beverage emitted from within the vehicle, and that there was an open can of beer in the center  
15 console. Respondent had fallen asleep in the back of a Border Patrol vehicle and had to be woken  
16 by the CHP officer. Respondent stumbled as he got out of the patrol car, and was unsteady on his  
17 feet. The officer could smell the distinct odor of an alcoholic beverage on Respondent's breath,  
18 his eyes were red and glassy, and his speech was slurred. Respondent admitted to consuming  
19 alcohol before and during driving, and also admitted he had smoked marijuana before he left his  
20 house. Respondent did not have a California driver's license. Respondent provided two breath  
21 samples which were analyzed by the preliminary alcohol screening device with a BAC of .145  
22 and .149 percent, respectively. Respondent was unable to complete the field sobriety tests as  
23 explained and demonstrated by the officer, and he was arrested for DUI. In a search of  
24 Respondent's vehicle, the officer found three open cans of beer, two mini liquor bottles, and a  
25 small tobacco pipe containing marijuana residue.

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21. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant to California Code of Regulations, title 16, section 2522, Complainant alleges:

a. On or about August 30, 2007, the Board issued Citation Order No. 07-0228-L to Respondent for violating Business and Professions Code section 2878, subdivision (e), making or giving any false statement or information in connection with the application for issuance of a license. Respondent failed to declare his 2002 DUI conviction, described in paragraph 18, above, on his application for licensure.

b. Respondent was ordered to pay an administrative penalty (fine) in the amount of \$250.

## PRAAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 228255, issued to Jason George Stryker;

2. Ordering Jason George Stryker to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: DEC 17 2012

TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
*Complainant*

SD2012704125